

OCTOBER 10, 2005

**A REGULAR MEETING OF THE CITY OF KINGSVILLE, TEXAS, CITY COMMISSION WAS HELD ON MONDAY, OCTOBER 10, 2005 IN THE HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS, CITY HALL, 200 EAST KLEBERG AVENUE AT 6:00 P.M.**

**CITY COMMISSION PRESENT:**

Sam R Fugate, Mayor  
Charles E Wilson, Commissioner  
Al Garcia, Commissioner  
Stanley Laskowski, Commissioner  
Arturo Pecos, Commissioner

**CITY STAFF PRESENT:**

Carlos Yerena, City Manager  
Courtney Alvarez, City Attorney  
Edna S Lopez, City Secretary  
Stanley Fees, City Engineer  
Jaime Garza, Task Force Commander  
J R Ibarra, Task Force Asst. Commander  
Ricardo Torres, Police Chief  
Art Alvarez, Risk Manager  
Jennifer Cantu, Director of Development Services  
Diana Gonzales, Human Resource Director  
Dora Byington, Purchasing Director  
Joe Casillas, Water Production Supervisor  
Al Lopez, Fire Chief  
John Garcia, Garage Superintendent  
Vilma Castillo, Collections Manager  
Daniel Almeida, Waste Water Superintendent  
A L Noyola, Health Director  
Dianne Leubert, Solid Waste Superintendent  
Caron Vela, Accounting Manager

**I. Preliminary Proceedings.**

**OPEN MEETING**

Mayor Fugate called the meeting to order in the Commission Chambers at 6:00 P.M.

**INVOCATION / PLEDGE OF ALLEGIANCE – (Mayor Fugate)**

The invocation was delivered by City Manager Yerena, followed by the Pledge of Allegiance and the Texas Pledge.

**MINUTES OF PREVIOUS MEETING(S) – Required by Law**

Mayor Fugate called for consideration of the minutes from the regular meeting on September 26, 2005. **Commissioner Wilson made a motion to approve the minutes as corrected, seconded by Commissioner Laskowski. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Laskowski, Wilson voting "FOR".**

**II. Public Hearing - (Required by Law).<sup>1</sup>**

1. Public Hearing to rezone 15.29 acres out of the S/2 Lot 1, Block 17, K.T.& I. Subdivision, from R-1, Single Family District to C-4, Commercial District at the 1300 Block of South Hwy 77. (Director of Development Services).

The public hearing was opened at 6:02 P.M.

Ms Jennifer Cantu, Director of Development Services explained the property in question was located at the 1300 block of South Hwy 77. She said Mr. Robert B. Nelson, on behalf of H. B. Nelson Estate, is requesting to rezone 15.29 acres out of the s/2 (south half) of Lot 1, Block 17, K.T.& I. Subdivision from R-1, Single Family District to C-4, Commercial District.

The proposed zoning change request is to use the property for a heavy equipment type business (Tractor Supply). The Planning and Zoning Commission recommended unanimous approval.

Mayor Fugate called for questions or comments from the public and Commission. There were no comments made.

The public hearing was closed at 6:05 PM

2. Public Hearing to rezone 0.7 acres out of the S/2 Lot 1, Block 17, K.T.& I. Subdivision, from R-1, Single Family District to C-4, Commercial District at the 1300 Block of South Hwy 77. (Director of Development Services).

The public hearing was opened at 6:05 PM

Ms Cantu explained the property in question was located at the 1300 block of South Hwy 77. She said that the Kingsville Area Industrial Development Foundation is requesting to rezone .7 acres out of the s/2 (south half) of Lot 1, Block 17, K.T.& I. Subdivision, from R-1, Single Family District to C-4, Commercial District. This rezoning request is in conjunction with the previous request to rezone 15.29 acres to C-4 Commercial. The Planning and Zoning Commission recommended unanimous approval.

Mayor Fugate called for questions or comments from the public and Commission. There were no comments made.

The public hearing was closed at 6:07 PM

### **III. Petitions, Grievances, and Presentations.<sup>2</sup>**

1. Proclamation designating the week of October 16<sup>th</sup> – 21<sup>st</sup>, 2005 as "Kingsville Business & Professional Women's Week".

Mayor Fugate presented the proclamation to several members of the Kingsville Business & Professional Women's Association.

2. Proclamation designating the month of October 2005 as "Fire Prevention Month".

Mayor Fugate presented the proclamation to Fire Chief Al Lopez.

3. Proclamation designating the month of October 2005 as "National Disability Employment Awareness Month".

Mayor Fugate presented the proclamation to Mr. Stanley Fees, City Engineer.

4. City Manager's Report. (City Manager).

Mayor Fugate called for the City Manager's report. City Manager Yerena reported on the Street Department having received the asphalt zipper; and on the Task Force making a presentation.

#### **4.1 Task Force presentation.**

Mr. Jaime Garza, Commander briefly went over the proposed cooperative working agreement with the Sheriff's Department.

Mayor Fugate asked for comments or questions. Mayor Fugate asked if Ms Alvarez had reviewed the document. Mr. Garza replied she had.

There was lengthy discussion on sharing of seizures.

Commissioner Laskowski asked why a cooperative working agreement was needed if there already existed a County wide cooperative working agreement that was signed by all the Constables. In response to Commissioner Laskowski's question, City Manager Yerena replied the underline concept of the agreement is to establish some written procedures. The agreement would stipulate the mechanism by which they would participate and in return receive a benefit for their participation. Commissioner Laskowski said that under the other cooperative working agreement the Task Force has not had to share its assets with the Constables.

Commissioner Garcia stated he wanted to make clear that the Task Force exists strictly on forfeiture and cash seizures, and they do not have any other type of funding.

City Manager Yerena stated the contract stipulates that the Kleberg County Sheriff department would reciprocate the same.

Commissioner Wilson stated it is important that, if the agencies do not participate neither should share. He stressed that those who contribute to that case, share in that.

Mr. Garza encouraged everyone to view the Task Force's Mission Statement that is on the City of Kingsville's website.

Commissioner Laskowski said that he would like to see a clear understanding on what "hands on" means.

5. City Attorney's Report. (City Attorney).

Mayor Fugate called for the City Attorney's report. Ms Alvarez reported on the schedule for the next Charter Review meetings, and on the Secretary of State Election calendar.

6. City Commission's Reports. (City Commission).

Mayor Fugate called for the City Commission's reports. There were no reports.

**IV. Public Comment on Agenda Items<sup>3</sup>**

1. Comments on all agenda and non-agenda items.

Mr. Romeo Lomas, 414 E Yoakum, Kleberg County Commissioner, commented on Consent Agenda Item #1.

**V. Consent Agenda**

2. **Motion to approve authorizing the City Manager to enter into a Coastal Bend Regional Interoperability Radio Linking Agreement with the Coastal Bend Council of Governments. (Police Chief).**

3. Motion to approve authorizing the City Manager to enter into a Memorandum of Understanding – Texas Interoperability Channel Plan (TIC) with the Texas Department of Public Safety. (Police Chief).
4. Motion approving out-of-state travel for Police Officer Johnny Campos on October 14<sup>th</sup>, 2005 to Washington, DC to attend training on the use of a thermal imager. (Police Chief).
5. Motion approving a resolution of the City of Kingsville, Texas, authorizing the South Texas Aggregation Project, Inc. to negotiate an electric supply agreement for deliveries of electricity effective January 1, 2006; Authorizing the Mayor or other designated City Official to sign a contract with STAP for the City of Kingsville's 2006 and, if practical, 2007 electricity needs; and committing to budget for energy purchases in 2006 and, if practical, 2007 and to honor the City of Kingsville's commitments to purchase power for its electrical needs in 2006 and, if practical, 2007 through STAP. (City Engineer).
6. Motion approving the Guidelines and Criteria for Stimulating Residential & Commercial Development. (Director of Development Services).
7. Motion to approve termination of the local state of disaster declared by the Mayor of the City of Kingsville on September 4, 2005 and extended by the City Commission on September 12, 2005. (City Attorney).

Mayor Fugate made a motion to amend the consent agenda by removing Item #1, seconded by Commissioner Wilson and Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Garcia, Laskowski, Wilson, Pecos voting "FOR".

Mayor Fugate called for consideration of the balance of the Consent Agenda. Commissioner Garcia a motion to approve the balance of the Consent Agenda, seconded by Commissioner Wilson and Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Laskowski, Wilson, Pecos, Garcia voting "FOR".

1.Motion approving an ordinance amending the City of Kingsville Code of Ordinances by amending Chapter III, Article 7, Personnel Policies providing for the adoption of the job classification and compensation plan for FY 2005-2006. (Human Resource Director).

Commissioner Wilson made a motion to table Agenda Item #1, seconded by Commissioner Pecos. The motion was passed and approved by the following vote: Fugate, Laskowski, Garcia, Pecos, Wilson voting "FOR".

### REGULAR AGENDA

#### CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

#### VI. Items for consideration by Commissioners.<sup>4</sup>

8. Consider appointments to the City-County Board of Health. (Commissioner Laskowski).

Commissioner Laskowski stated that since the last Commission meeting, the County Judge had contacted the City Secretary and had told her that the County would only consider one nomination from the City, because the County has its own nomination. Commissioner Laskowski suggested rescinding the previous nominations or to table this item until the County votes on their appointment.

Mayor Fugate suggested tabling this item. Commissioner Laskowski made a motion to table this item, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Wilson, Laskowski voting "FOR".

**9. Consider introduction of an ordinance changing the zoning map in reference to 15.29 acres out of the S/2 Lot 1, Block 17, K.T.& I. Subdivision, from R-1, Single Family District to C-4, Commercial District at the 1300 Block of South Hwy 77. (Director of Development Services).**

Ms Cantu stated this item was brought at the beginning of tonight's meeting in the form of a public hearing. The applicant, Mr. Robert B. Nelson, on behalf of H. B. Nelson Estate, is requesting to rezone 15.29 acres out of the s/2 (south half) of Lot 1, Block 17, K.T.& I. Subdivision from R-1, Single Family District to C-4, Commercial District. She stated that the proposed zoning change request was to use the property for a heavy equipment type business (Tractor Supply). She stated the Planning and Zoning Commission recommended unanimous approval. No comments were received at the Planning and Zoning meeting or at the public hearing.

**INTRODUCTION ONLY**

**10. Consider introduction of an ordinance changing the zoning map in reference to 0.7 acres out of the S/2 Lot 1, Block 17, K.T.& I. Subdivision, from R-1, Single Family District to C-4, Commercial District at the 1300 Block of South Hwy 77. (Director of Development Services).**

Ms Cantu stated this item was brought at the beginning of tonight's meeting in the form of a public hearing. She said that the Kingsville Area Industrial Development Foundation is requesting to rezone .7 acres out of the s/2 (south half) of Lot 1, Block 17, K.T.& I. Subdivision, from R-1, Single Family District to C-4, Commercial District. She said this rezoning is being requested in conjunction with the previous request to rezone 15.29 acres to C-4 Commercial. She stated the Planning and Zoning Commission recommended unanimous.

**INTRODUCTION ONLY**

**11. Discuss and consider Tax Increment Financing Reinvestment Zone boundaries and related matters. (City Manager).**

City Manager Yerena described the tentative boundary map of the zone that designates the boundaries of a proposed Tax Increment Reinvestment Zone. The reinvestment zone focuses on the downtown area. Some of the limitations are that no more than 10% of the property within the zone can be residential; the zone can not contain property that exceeds 15% of the total appraised property value within the City and the CTJ. Basically, the zone is catered to include most of the commercial development areas close to the downtown area, which includes Richard Street. City Manager Yerena said a preliminary approval on the boundaries is needed, and public hearings must be scheduled before the zones are actually designated.

Commissioner Wilson suggested that the City Manager proceed with the project.

Commissioner Laskowski asked if the City Manager would be getting together with other entities. City Manager Yerena replied that part of the process requires a written notice and that the City provides an official presentation to the entities. Appraised values are also needed.

Commissioner Garcia asked how the City Manager came up with the criteria for setting the boundaries. City Manager Yerena replied the criteria came from prior discussions with the Commission.

**Commissioner Laskowski made a motion to approve the map for the Tax Increment Financing Reinvestment Zone, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Pecos, Garcia, Wilson, Laskowski voting "FOR".**

**12. Consider amendment to Human Resource Initiative Policy No. 620.4 Overtime Pay. (Commissioner Laskowski).**

Commissioner Laskowski stated it was brought to his attention that supervisors could authorize overtime pay for salaried employees. He said that language was offered to change that, so that during periods of emergency services this would be the only time this would be allowed.

With regard to the last two hurricanes, Ms Alvarez said there are times when FEMA will allow reimbursement for exempt employees who worked during times of disaster. There was a concern with regard to supervisors being able to authorize the overtime for exempt employees. If there could a modification only in periods when the emergency service policy is activated where the City is getting reimbursement from an outside agency, then it would be allowed. She said this is not something that can just happen any day of the week as the policy originally stands.

Commissioner Pecos asked if FEMA decides not to pay, is the City obligated. Ms Alvarez replied it depends on the pay period.

Commissioner Wilson asked irregardless of whether or not the City is reimbursed, are we going to pay the exempt employees. Ms Alvarez replied only if the City Manager makes that decision during the time of emergency.

Commissioner Laskowski stated that FEMA will only reimburse the City if it is part of the disaster.

City Manager Yerena stated the underline concept is that what ever triggers the declaration of a disaster area than at that point this policy kicks in because at that point there will be some reimbursement for the overtime. He requested some more time to come up with some defined language.

**Commissioner Laskowski made a motion to table this item, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Garcia, Pecos, Wilson, Laskowski voting "FOR".**

**13. Consider giving direction to outside legal counsel regarding the water supply contract with the South Texas Water Authority. (Mayor Fugate).**

Mayor Fugate said this deals with the potential litigation with South Texas Water Authority. There is a contract in place with an attorney.

Ms Alvarez said that in October 2004, the City Commission unanimously approved the hiring, the retention of Attorney John Alworth to assist the City

in all matters regarding the South Texas Water Authority. Mr. Alworth is still within the City's employment with regard to any matters pertaining to them.

**Mayor Fugate made a motion to proceed, at this time with litigation against South Texas Water Authority, on the old contract for the over payment, seconded Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Garcia, Laskowski, Pecos, Wilson voting "FOR".**

The City Commission took a break at 7:00 P.M., then convened into executive session.

**14. Executive Session: Under Section 551.074 of the Texas Open Meetings Act, the City Commission shall convene in Executive Session to deliberate the contract for the City Manager. (Mayor Fugate).**

The City Commission reconvened into regular session at 7:34 P.M.

**15. Consider approval of employment contract for City Manager Carlos Yerena. (Mayor Fugate).**

Mayor Fugate stated that the City Attorney has been given directions on drafting the contract.

**Mayor Fugate made a motion to table this item until the next meeting, seconded by Commissioner Wilson. The motion was passed and approved by the following vote: Fugate, Garcia, Laskowski, Pecos, Wilson voting "FOR".**

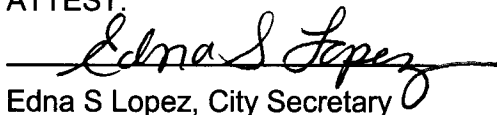
## **VII. Adjournment.**

There being no further business to come before the City Commission the meeting was adjourned at 7:35 P.M.



Sam R Fugate, Mayor

ATTEST:



Edna S Lopez, City Secretary